

**Senate Bill No. 762**

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Passed the Senate     June 5, 2003

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*Secretary of the Senate*

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Passed the Assembly     July 17, 2003

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2003, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Section 1210 of the Penal Code, relating to controlled substances.

## LEGISLATIVE COUNSEL'S DIGEST

SB 762, Brulte. Nonviolent drug possession offense: personal use.

Existing law categorizes controlled substances into Schedules I to V, inclusive, and places the greatest restrictions and penalties on those contained in Schedule I. Existing law, added by initiative statute, generally provides that, effective July 1, 2001, (a) a person convicted of a nonviolent drug possession offense shall receive probation with completion of a drug treatment program as a condition of that probation, and (b) a person's parole may not be suspended or revoked for committing a nonviolent drug possession offense or for violating a drug-related condition of parole, but an additional condition of parole for those offenses or violations shall be the completion of a drug treatment program. Existing law defines the term "nonviolent drug possession offense" to mean the unlawful possession, use, or transportation for personal use of any controlled substance classified in Schedules I to V, inclusive.

This bill would clarify the definition of "nonviolent drug possession offense" by providing that the term means the unlawful personal use, possession for personal use, or transportation for personal use of any controlled substance classified in Schedules I to V, inclusive. Because the initiative statute may be amended by the Legislature by a  $\frac{2}{3}$  vote, the bill would require a  $\frac{2}{3}$  vote for enactment.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1210 of the Penal Code is amended to read:

1210. Definitions

As used in Sections 1210.1 and 3063.1 of this code, and Division 10.8 (commencing with Section 11999.4) of the Health and Safety Code:



(a) The term “nonviolent drug possession offense” means the unlawful personal use, possession for personal use, or transportation for personal use of any controlled substance identified in Section 11054, 11055, 11056, 11057 or 11058 of the Health and Safety Code, or the offense of being under the influence of a controlled substance in violation of Section 11550 of the Health and Safety Code. The term “nonviolent drug possession offense” does not include the possession for sale, production, or manufacturing of any controlled substance and does not include violations of Section 4573.6 or 4573.8.

(b) The term “drug treatment program” or “drug treatment” means a state licensed and/or certified community drug treatment program, which may include one or more of the following: outpatient treatment, half-way house treatment, narcotic replacement therapy, drug education or prevention courses and/or limited inpatient or residential drug treatment as needed to address special detoxification or relapse situations or severe dependence. The term “drug treatment program” or “drug treatment” includes a drug treatment program operated under the direction of the Veterans Health Administration of the Department of Veterans Affairs or a program specified in Section 8001; such a program shall be eligible to provide drug treatment services without regard to the licensing or certification provisions required by this subdivision. The term “drug treatment program” or “drug treatment” does not include drug treatment programs offered in a prison or jail facility.

(c) The term “successful completion of treatment” means that a defendant who has had drug treatment imposed as a condition of probation has completed the prescribed course of drug treatment and, as a result, there is reasonable cause to believe that the defendant will not abuse controlled substances in the future.

(d) The term “misdemeanor not related to the use of drugs” means a misdemeanor that does not involve (1) the simple possession or use of drugs or drug paraphernalia, being present where drugs are used, or failure to register as a drug offender, or (2) any activity similar to those listed in paragraph (1).



Approved \_\_\_\_\_, 2003

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*Governor*

